

Remarks

Applicants thank the Examiner for kindly extending Sharf U. Ahmed and Allison Johnson the courtesy of an interview on July 8, 2005. During the interview, the Examiner agreed that the results presented during the interview, which are reflected in the Declaration of Sharf U. Ahmed attached hereto as Exhibit 1, overcome the current rejections of record.

Claims 2-12, 33-36, 38-42, 44, and 46-64 stand rejected under 35 U.S.C. § 103 over Maletsky et al. in view of EP 315,013 (EP '013) and further in view of Smith et al. and optionally further in view of Buell.

Maletsky et al. disclose hot melt compositions. The one example composition disclosed by Maletsky et al. is a hot melt adhesive blend that includes hydrocarbon resin, amorphous polypropylene, antioxidant and crystalline polypropylene, and has a melt viscosity of 11,000 cps at 325°F (i.e., 162.8°C).

EP '013 discloses a method of making a diaper that includes coating a thermoplastic polymer material onto a web by means of a surface nozzle or an application roller.

Smith et al. disclose a hot melt extrusion coating process that includes extruding a random copolymer of ethylene and acrylic acid at a temperature of about 105°C to about 250°C in the form of a thin film that is deposited on a substrate.

Buell et al. disclose a method of bonding a porous web to a substrate. The Buell et al. method includes applying a discontinuous hot melt adhesive to a porous fibrous web by direct contact extrusion.

Claim 10, the first independent claim, is directed to a method of forming a continuous film layer of a thermoplastic composition onto a substrate. The method includes providing a molten thermoplastic composition, advancing a web along a path, dispensing a continuous film of the thermoplastic composition from a coating device at a coating temperature where the thermoplastic composition has a complex viscosity of less than about 500 poise at about 1000 radians/seconds at the coating temperature and a complex viscosity ranging from about 100 poise to about 1,000 poise at about 1 radian/second at the coating temperature, suspending the film between the coating device and the web, and contacting the film with the advancing web. The thermoplastic

composition is released from the coating device at a temperature of less than about 160°C. To establish a *prima facie* case of obviousness based upon a proposed combination of references there must be a teaching, suggestion or motivation in the prior art for making the proposed combination. See M.P.E.P. 2142; *Fromson v. Anitec Printing Plates, Inc.*, 132 F.3d 1437 (Fed. Cir. 1997); *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340, 1352, (Fed. Cir. 1998). In addition, the proposed combination must teach or suggest each and every element of the claimed invention. Here there the proposed combination of Maletsky et al. and EP '013 lacks a required element of the claimed invention.

It is undisputed that Maletky et al. fail to teach a noncontact coating method. Notwithstanding the assertions to the contrary in the January 21st Office action, Maletsky et al. also do not teach or suggest employing an extrusion coating method for application of a film. Rather, Maletsky et al. describe applying a coating to a rayon-polyester sample using an extrusion applicator (see Maletsky et al., Example 2). Maletsky et al. also do not teach applying a continuous film to a substrate. Maletsky et al. examine the samples of their examples for pin-hole free continuity, but Maletsky et al. do not teach that the coating on their samples was applied as a continuous film. Instead, Maletsky et al. explain that because the composition is a hot melt adhesive, once it has been applied to the substrate “the cooling procedure allows the material to set and form a continuous, pin-hole free, flexible layer which forms a strong bond with the substrate” (Maletsky et al., col. 5, lines 22-26). Thus, Maletsky et al. achieve a continuous, pin-hole free layer as a result of the hot melt composition setting on the substrate --not as a result of applying a continuous film on a substrate. Thus, the Maletsky et al. layer is not applied as a continuous film.

EP '013 does not cure the deficiencies of Maletsky et al. It is undisputed that EP '013 does not expressly teach a noncontact coating method. EP '013 also does not inherently teach a noncontact coating method. During the July 8th interview, experimental results reflected in the attached Declaration of Sharf U. Ahmed were presented to the Examiner. Mr. Ahmed set up a coating apparatus in a manner similar to the apparatus partially illustrated in EP '013 (see, Declaration of Sharf U. Ahmed, para. 1, which is attached at Exhibit A). Mr. Ahmed attempted to coat a polyester nonwoven

web having a basis weight of 25 g/m² with VESTOPLAST 708 poly-alpha-olefin polymer. When Mr. Ahmed operated the apparatus with the coating head spaced a distance of from 0.5 mm to 2 mm away from the nonwoven web, the apparatus did not produce a continuous coating on the nonwoven web (see, *Id.* at Table 1 and paras. 4 and 6). After conducting the noncontact coating experiments, Mr. Ahmed examined the coating apparatus and found VESTOPLAST 708 polymer on the stationary part of the coating head setup located beneath the movable part of the coating head, which is identified by number 22 on the photograph at Tab 4 of Mr. Ahmed's Declaration (see, *Id.* at para. 5 and Tab 4). Mr. Ahmed determined that the VESTOPLAST 708 polymer had dripped from the coating head onto the stationary part of the coating head setup during the period of the coating operation in which the coating head was not in contact with the moving web (see *Id.*). Upon reviewing the results, the Examiner agreed that EP '013 does not teach a noncontact coating method. Since EP '013 does not teach a noncontact coating method, the premise on which the rejection of claim 10 under 35 U.S.C. § 103 over Maletsky et al. in view of EP '013 and further in view of Smith et al. and optionally further in view of Buell is based is not sound. Accordingly, the rejection of claim 10 under 35 U.S.C. § 103 over Maletsky et al. in view of EP '013 and further in view of Smith et al. and optionally further in view of Buell cannot stand and must be withdrawn.

Claims 3 and 4 stand rejected under 35 U.S.C. § 103 over EP '013 in view of Maletsky et al. '202 further in view of Smith et al. and optionally further in view of Buell taken with Waggoner or UK 688,637.

The rejection of claims 3 and 4 under 35 U.S.C. § 103 over EP '013 in view of Maletsky et al. '202 further in view of Smith et al. and optionally further in view of Buell taken with Waggoner or UK 688,637 is based upon the above-refuted premise that EP '013 inherently teaches a noncontact coating method. Since this premise has been refuted, the rejection cannot stand and Applicants request that it be withdrawn.

There being no further rejections of record, Applicants submit that the claims now pending are in condition for allowance and such action is respectfully requested. The Examiner is invited to telephone the undersigned should a teleconference interview facilitate prosecution of this application.

Applicants now address certain statements in the January 21, 2005 Office action. A statement made in an Office action does not become truthful simply by its presence in an Office action. An Applicant's decision not to expressly address or rebut a statement in an Office action does not constitute an admission or acquiescence in the statement. Even so, and so that the record is clear, Applicants herein expressly note their disagreement with any and all of the assertions set forth in all existing Office actions pertaining to the above-captioned application. Applicants' decision not to address statements contained in the aforementioned Office actions was, and is, in no way intended to constitute nor does it constitute an admission that such statements are true. Applicants make these statements for all Amendments and Responses previously submitted, currently submitted, and for future submissions.

Applicants also wish to clarify the record regarding the Examiner's statements at page 8, lines 16-18 of the January 21st Office action. The Board did not affirm the rejection that is currently outstanding. The rejection that the Board affirmed was claims 2-12, 33-36, 38-42, 44, and 46-59 under 35 U.S.C. § 103 over EP '013 in view Maletsky et al. and further in view of Smith et al. and optionally further in view of Buell, whereas the current outstanding rejection is of claims 2-12, 33-36, 38-42, 44, and 46-64 under 35 U.S.C. § 103 over Maletsky et al. in view of EP '013 and further in view of Smith et al. and optionally further in view of Buell.

Applicants next address the assertion, "[O]ne skilled in the art viewing Maletsky would have known what type of VESTOPLAST to select from the various types available and such would have included VESTOPLAST having the same characteristics as claimed" (January 21st Office action, page 3, lines 9-12). There is no evidence of record demonstrating that prior to Applicants' invention any VESTOPLAST polymers were known as being suitable for use in a hot melt adhesive, let alone for use in the manufacture of diapers. There is also no evidence of record that the skilled artisan knew that any VESTOPLAST polymer was suitable for formulation in a hot melt adhesive prior to Applicants' invention. Therefore, the conclusions quoted above are not supported by facts in the record.

Applicants next clarify a mischaracterization at page 4, line 22– page 5, line 2 of the January 21st Office action. Smith does not teach that extrusion coating of hot melt


adhesives typically included an extruder and a gap between the extruder and the substrate. Rather, Smith discloses that olefin polymers and copolymers have been coated on substrates by a hot melt extrusion process that often involves melting the olefin polymer, extruding the molten polymer through a slit-die to form a molten film of the polymer, and depositing the molten film onto the substrate (see, Smith et al., col. 1, lines 27-33).

Finally, to the extent that the statements at page 9, lines 5-12 of the January 21st Office action create any confusion, Applicants clarify the record by noting that EP '013 does not teach that its coatings are moisture vapor permeable. To the contrary, EP '013 discloses that the outer layer, i.e., the barrier layer, "[fulfills] the goal of high moisture-impermeability" (EP '013, page 3).

Please charge any additional fees owing or credit any over payments made to Deposit Account No. 06-2241.

Respectfully submitted,

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